

FILED

August 3 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

ED

AUG 03 2010

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 10-0287

IN THE MATTER OF THE ESTATE OF  
JAMES R. BREWSTER, Deceased.

ORDER  
*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Appearing self-represented, Dale L. Keil (Keil) has filed a Motion for Stay of Execution of Judgment and Approval of Supersedeas Bond, supported by the Affidavit of Dale L. Keil, a copy of a supersedeas bond signed by Keil and two apparent sureties, and copies of several district court orders. The Ninth Judicial District Court, Teton County, denied the stay of execution and refused to approve the supersedeas bond in Cause No. DP 07-008.

Keil was retained as counsel to the personal representative in the Estate of James R. Brewster. Keil and the personal representative signed an hourly fee agreement which required that he be compensated for his services on a monthly basis. He was paid \$23,730.26, but billed the estate \$26,491.08 for attorney's fees and costs of administration. Upon hearing, the District Court denied Keil any extraordinary fees, and awarded him only \$2,580 in statutory attorney's fees.

With respect to a stay of judgment or order pending appeal, we turn to M. R. App. P. 22(2). Under Rule 22(2) good cause for the relief requested from this Court must be established. This Court may grant, modify or deny the relief requested, "in the interests of justice." M. R. App. P. 22(3).

It appears the Motion for Stay of Execution of Judgment and for Approval of Supersedeas Bond was timely filed and satisfies the prerequisites of the rule. Further, Keil presented a supersedeas bond in the amount of \$27,000, which clearly exceeds the amount in controversy.

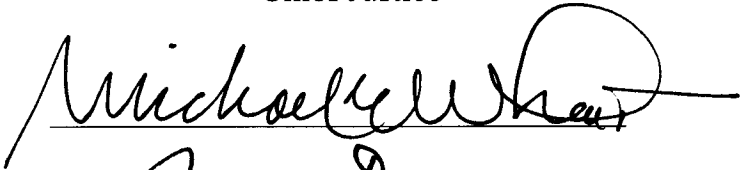
IT IS ORDERED that the supersedeas bond is approved.

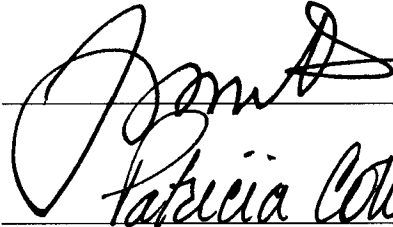
IT IS FURTHER ORDERED that the stay of execution is GRANTED.

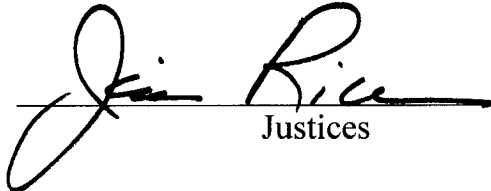
The Clerk is directed to provide a copy of this Order to Hon. Laurie McKinnon of the Ninth Judicial District Court, presiding for Teton County, to counsel of record, and to Keil.

DATED this 3<sup>rd</sup> day of August, 2010.

  
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Chief Justice

  
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\_\_\_\_\_  
Patricia Cotten

  
\_\_\_\_\_  
Justices

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DA 10-0287

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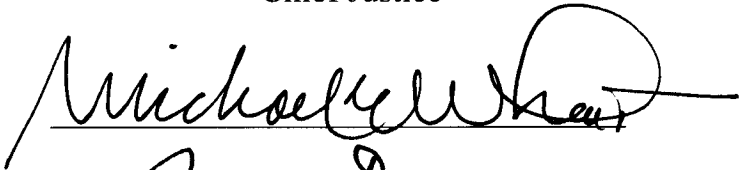
IT IS ORDERED that the supersedeas bond is approved.

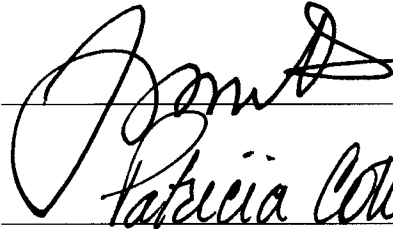
IT IS FURTHER ORDERED that the stay of execution is GRANTED.

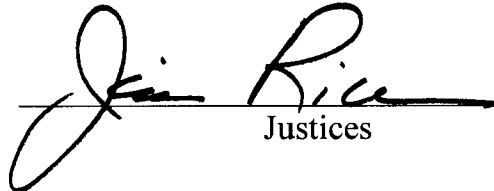
The Clerk is directed to provide a copy of this Order to Hon. Laurie McKinnon of the Ninth Judicial District Court, presiding for Teton County, to counsel of record, and to Keil.

DATED this 30 day of August, 2010.

  
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Chief Justice

  
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\_\_\_\_\_  
Patricia Cottes

  
\_\_\_\_\_  
Jean Rice  
Justices